IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3424 OF 2003

Rajkumar Poonamchand Kasliwal] .. Petitioner

Versus

The Sub-Divisional Officer, National Highway Sub-Division No.37, Nasik.] .. Respondent

Mr. Rahul Matkari for the petitioner.

Mr. C.R. Sonawane, AGP, for the respondent.

CORAM: R.M. LODHA &
NARESH H. PATIL, JJ.

DATED: 14TH AUGUST, 2006

P.C. :

. At the outset, Mr. Rahul Matkari, Advocate prayed for adjournment on the ground that Mr. V.Z. Kankaria, Advocate had submitted the leave note. We are not persuaded to grant any adjournment. The Writ Petition pertains to the year 2003 and cannot be adjourned on the ground that leave note has been submitted by the Advocate for the petitioner in the Registry.

2. The petitioner in the Writ Petition has averred that land admeasuring 1 hectare and 61 ares (Gut

No.623-B) situate at village Rahud Taluka Chandwad, District Nasik was taken possession of for widening the National Highway, without acquiring the same under the Land Acquisition Act nor the petitioner has been paid compensation.

3. On 8th August, 2006 the Assistant Government Pleader prayed for short time for filing reply Affidavit. However, no reply Affidavit has been filed. Thus, the averments made in the Writ Petition remain uncontroverted and untraversed.

4. The Assistant Government Pleader submits that record is not traceable as per the communication received from the office of the Sub-Divisional Engineer, National Highway Division No.41, Malegaon, Nasik.

5. If the petitioner’s land had been acquired for widening the National Highway, obviously the petitioner is entitled to compensation. Since no reply Affidavit has been filed by the respondents nor the Assistant Government Pleader is able to tell us anything for want of availability of record, we are satisfied that the

Writ Petition may be disposed of by the following order:

(i) The Collector, Nasik or any other responsible officer delegated by him shall hold an enquiry into the matter as to whether the petitioner's land admeasuring 1 hectare and 61 ares (Gut No.623-B) situate at village Rahud, Taluka Chandwad, District Nasik was taken possession of in the year 1971 for widening the National Highway without acquiring the same under the Land Acquisition Act or any other law and whether the petitioner has been paid compensation for compulsory acquisition of his aforesaid land.

(ii) If it is found in the said enquiry that the petitioner's land was taken possession of for the purpose of widening the National Highway without acquiring the same and without payment of compensation, we direct the Collector, Nasik to take immediate steps for payment of compensation to the petitioner for compulsory acquisition of his

land and, if necessary, initiate the acquisition proceedings and determine the compensation.

(iii) The enquiry shall be completed by the Collector or his delegated authority within six months from today.

Sd/-
[R.M. LODHA, J.]

Sd/-
[NARESH H. PATIL, J.]